

## Guardianship Program Rules

### 515 Sanctions and Remedies

515.1 Following a determination that a professional guardian has violated a provision of the Standards of Practice, sanctions may be appropriate. Any sanction or remedy imposed by the Board or the Supreme Court on a professional guardian or agency, whether or not agreed to by the professional guardian, is a disciplinary sanction. Sanctions may include decertification, suspension, prohibition against taking new cases, letter of reprimand, or letter of admonishment. Factors to be considered in imposing sanctions include:

515.1.1 The duty violated.

515.1.2 The professional guardian's mental state.

515.1.3 The potential or actual injury caused by the professional guardian's misconduct.

515.1.4 The existence of aggravating or mitigating factors.

515.1.4.1 Aggravating factors include prior disciplinary action by the Board against the same professional guardian, dishonest or selfish motives, a pattern of misconduct, multiple offenses, failure to cooperate during the disciplinary proceeding, refusal to acknowledge the wrongful nature of the conduct, vulnerability of the victim, indifference to making restitution, and illegal conduct.

515.1.4.2 Mitigating factors include the absence of a prior disciplinary record, timely good faith to make restitution or to rectify consequences of misconduct, cooperation with the disciplinary proceedings, and temporary circumstances outside the professional guardian's control.

515.2 Imposition of Sanctions: Generally, the following sanctions are available.

515.2.1 Decertification is generally appropriate when a professional guardian engages in:

515.2.1.1 Professional misconduct incompatible with the Standards of Practice with the intent to benefit the professional guardian or another; or deceive the court; or cause serious or potentially serious injury to a party, the public, or the legal system or causes serious or potentially serious interference with a legal proceeding;

515.2.1.2 Felonious criminal conduct,

515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or misrepresentation that seriously, adversely reflects on the professional guardian's fitness to practice, or

515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the same Standards of Practice, and where the guardian has not corrected the behavior despite previous attempts by the courts or the Board to correct the behavior. (Adopted 1-9-12)

515.2.2 Prohibition against taking new cases or suspension for a period of time, or both, is generally appropriate when a professional guardian engages in:

515.2.2.1 Professional conduct incompatible with the Standards of Practice and causes injury or potential injury to a party, the public, or the legal system, or causes interference or potential interference with a legal proceeding, or

515.2.2.2 Criminal conduct that seriously adversely reflects on the professional guardian's fitness to serve.

515.2.3 A letter of reprimand is generally appropriate when a professional guardian engages in:

515.2.3.1 Professional misconduct incompatible with the Standards of Practice and causes injury to a party, the public, or the legal system, or causes interference with a legal proceeding, or

515.2.3.2 Any other misconduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the professional guardian's fitness to practice.

515.2.4 A letter of admonishment is generally appropriate when a professional guardian engages in professional misconduct incompatible with the standards of practice and not rising to the level justifying a reprimand.

515.3 Remedies are designed to ensure compliance with duties, standards, and requirements for a professional guardian. Remedies may include, but are not limited to, changes in methods of practice, probation, restitution, additional training for guardian or staff, requirement that the professional guardian obtain expert consultation, mentoring, or an audit.